



COMMISSIONER

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

June 4, 2013

The Honorable Dave Camp  
Chairman  
The Honorable Sander Levin  
Ranking Member  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman and Mr. Ranking Member:

I am responding to your May 14, 2013, letter to former Acting Commissioner Steven Miller requesting information in support of your investigation into the Internal Revenue Service (IRS) treatment of tax-exempt applications. Please note that I cannot provide information requested in certain questions because Internal Revenue Code (IRC) section 6103 prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized by some provision in that section.

I am committed to providing you with as full a response as possible and to full cooperation with you and your staff to address this matter. As you may know, we have received many similar inquiries from Congressional committees since the release of the Treasury Inspector General for Tax Administration (TIGTA) Audit #2012120022. We have reviewed these requests and are in the process of gathering relevant, responsive information. As part of this process, we have directed our document retention and retrieval specialists to perform an electronic data search of the records of all personnel we have identified who may have potentially relevant information. We are conducting this process pursuant to the litigation hold procedures detailed in IRS Chief Counsel Notice CC-2012-017. As of May 28, 2013, we had collected 646 gigabytes of raw electronically stored information (ESI). One gigabyte of data is approximately 100,000 pages of documents. Much of the ESI will require decryption, which often corrupts files that must be restored manually before the search process can begin. Once we have the decrypted information, we can search it according to requested terms. We then review "hits" to ensure they are responsive. As a result, the time frame for completion depends on several factors, including the number of custodians, search terms, and hits.

To expedite this process, we are able to provide a rolling production of the documents that you have requested, giving priority to data obtained from specific individuals. IRS staff is also dedicated to providing you and your staff regular updates on our progress until the document production is complete.

Below you will find responses to your questions based on the information we have gathered to date. I will supplement these responses as additional information becomes available; however, a number of your questions ask for specific facts and circumstances regarding who knew about the aforementioned matters, when they found out, what actions (if any) they took, and why. I expect that the Department of Justice (DOJ) and TIGTA investigations currently underway will provide a comprehensive picture of the facts and circumstances surrounding this matter.

**Question 1: It has been widely reported and acknowledged by the agency that the IRS has been singling out conservative-leaning political organizations since 2010 through a series of filter terms. Key IRS officials have had knowledge of these practices since at least 2011, yet no mention of this knowledge was made to the Ways and Means Committee (Committee), despite the fact that the Committee initiated an inquiry in June 2011 related to reports that the IRS was singling out conservative groups and their donors about contributions to these organizations. From June 2011, the Committee has been engaged in an open investigation concerning the specific issue of groups being singled out by the IRS based on their political views. Who knew about the targeting of conservative groups, when did they become aware of such activities, when did you find out, and what actions did you take upon learning of these activities? Provide all documents and communications relating to these activities.**

Several current and former employees have testified before your Committee as to their individual recollections of the timeline of events. As our electronic discovery process progresses, we will provide to you the relevant documents and communications that we identify and gather. As noted above, I expect that the TIGTA and DOJ investigations will shed additional light on the facts. The IRS will thoroughly review the results of these investigations and keep the Committee apprised as further information becomes available as to those individuals that had information regarding the inappropriate activities addressed in the TIGTA report.

**Question 2: Did the IRS single out other organizations based on their political views? If so, what were the criteria or search terms used? Provide all documents and communications relating to the preparation of these search criteria. Specifically, provide a list of all search terms and key words used – including specific documentation of how those search terms and key words changed, if at all, from 2010 when the searches were first initiated, through 2012 when changes to searches were reportedly ordered by IRS leadership.**

The Exempt Organizations (EO) Determinations Unit receives approximately 60,000 applications for recognition of exemption annually. To more efficiently process cases with similar issues and to promote consistency of treatment, EO Determinations regularly identifies issues that should be centralized for full development. Until early in 2010, EO utilized e-mail to notify Determination Specialists as to identified issues.

Based on a review of information known to us in early 2010, the Determinations Unit Group Manager asked a specialist to search for applications for tax exempt status from Tea Party or similar organizations. By mid-March, the specialist had identified ten cases. Note that not all ten applicants were named "Tea Party." Rather, "Tea Party" was used inappropriately as descriptive shorthand to refer to the identified set of cases involving political campaign intervention. At the beginning of April 2010, the program managers of the Technical and the Determination Units agreed that a Sensitive Case Report should be prepared. The first Sensitive Case Report was prepared on April 18; by this time, 18 cases had been identified. Subsequently, EO began to send additional information request letters to a limited number of organizations and to alert specialists on emerging issues to watch for, including "Tea Party" cases. At the beginning of July 2010, the Determinations Unit identified a political-activity case with as many as 30 state chapters that appeared to have direct links to the Tea Party movement.

On August 12, 2010, the first "Be on the Lookout" (BOLO) list – a consolidated Excel spreadsheet of all e-mail alerts – was developed. Since that time, the IRS has maintained a continually evolving BOLO list. This list serves a variety of legitimate purposes—for example, alerting the EO Determinations Unit staff to applications that appear similar to known abusive transactions and allowing the staff to group applications for exempt status to promote efficiency and ensure consistent treatment. The BOLO list includes four tabs: (1) Potential Abusive, (2) Emerging Issues, (3) Coordinated Processing, and (4) Watch List. Please note that I cannot provide the BOLO criteria because IRC section 6103 prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized by some provision in that section.

**Question 3: Media reports have detailed that the IRS conducted special reviews of organizations whose missions involve Israel. Did the IRS undertake special reviews of these and other organizations whose activities contradict or are inconsistent with the Administration's policies? If so, provide all documents and communications relating to these practices.**

The IRS selects for in-depth review any applications that appear to be inconsistent with the requirements for tax exemption under the Internal Revenue Code. To the best of my knowledge, the development of selection criteria for additional review was not motivated by any desire to target organizations because their activities were inconsistent with the Administration's policies.

IRC section 6103 prohibits me from commenting on matters involving specific organizations.

**Question 4: Did the IRS at any time notify the Treasury Department of the targeting of conservative or any other groups? Provide all documents and communications between the IRS and Treasury on this matter.**

Several current and former employees have testified before your Committee as to their individual recollections of the timeline of events. As our electronic discovery process progresses, we will provide to you any relevant documents and communications we retrieve. As noted above, the TIGTA and DOJ investigations should shed additional light on the facts, and we defer to the results of those investigations. If you require additional information from former employees, please let us know and we can provide their attorneys' names to you.

**Question 5: Did the IRS at any time notify the White House of the targeting of conservative or any other groups? Provide all documents and communications between the IRS and the White House on this matter.**

Several current and former employees have testified before your Committee as to their individual recollections of the timeline of events. As our electronic discovery process progresses, we will provide to you any relevant documents and communications. As noted above, the TIGTA and DOJ investigations should shed additional light on the facts, and we defer to the results of those investigations. If you require additional information from former employees, please let us know and we can provide their attorneys' names to you.

**Question 6: What steps has the IRS taken to prevent the discriminatory or political targeting of individuals and organizations by the agency in the future? Provide all documents and communications relating to ending these practices.**

Working with the IRS team, I am committed to addressing the failings in the process for review of 501(c)(4) applications that allowed these inappropriate activities to occur. Upon my arrival at the IRS, I appointed new leadership in the Tax Exempt and Government Entities (TE/GE) organization, including a new acting EO Director and a new head of TE/GE, and asked these leaders to submit a plan to me for how they will address the backlog of outstanding 501(c)(4) applications.

We will work swiftly to implement the corrective actions described in the IRS management's response to the TIGTA audit report; and we will identify and implement any additional process improvements that ensure the prompt, fair and impartial adjudication of all applications for 501(c)(4) status. I have also begun conducting a comprehensive review of IRS operations to identify and address any other areas of risk or internal control weakness that may exist across the organization.

I have committed to deliver a report on our progress in this area to both the President and Treasury Secretary Lew by the end of June 2013, and will keep this Committee apprised of our progress, as well.

**Question 7: Has the IRS taken any disciplinary action against the employees and managers that engaged in the targeting of conservative groups? Provide all documents and communications relating to these disciplinary actions.**

Prior to my arrival, the Secretary of the Treasury requested and received the resignation of the Acting Commissioner of the IRS. In addition, the Commissioner of TE/GE tendered his resignation.

I am conducting a further review to determine what additional personnel actions must be taken to hold individuals accountable and to ensure that we have the proper people in positions of trust. I am committed to keeping the Committee informed of any disciplinary actions as a result of the pending investigations.

**Question 8: The IRS, through its officials, is legally and ethically bound to tell the truth to Congress and the American people. In this situation, the IRS had a continuing obligation to update and correct information provided to Congress if it was later determined to be incomplete or inaccurate. Why did your agency fail to be completely forthcoming with the Committee in its responses to the Committee's ongoing investigation, and in testimony before the Committee, regarding the IRS's practice of targeting conservative groups? Provide all documents regarding the preparation of responses to the Committee's investigation, and the preparation of testimony before the Committee.**

I am fully committed to ensuring that the IRS is truthful and forthcoming with Congress in this and all other matters. While I cannot speak to the actions taken prior to my arrival at the agency, I can commit that, going forward, we will operate in an open and transparent manner wherever possible and provide requested information to this Committee in a timely and appropriate manner.

With respect to requested documents, we will update you with any relevant information resulting from our electronic discovery process.

**Question 9: Who approved, prepared, or was consulted in the preparation of the IRS's responses to the Committee, including responses dated July 1, 2011, November 18, 2011, March 12, 2012, March 23, 2012, April 26, 2012, and June 15, 2012?**

My staff is researching the responses indicated in your question. I have enclosed a chart detailing all of the relevant information available at this time. I will update you with any additional information resulting from our research.

**Question 10: On March 22, 2012, former IRS Commissioner Douglas Shulman testified before the Subcommittee on Oversight. At this hearing, he was asked directly by Subcommittee Chairman Boustany about press allegations that the IRS was targeting certain Tea Party groups across the country requesting what was described as "onerous document requests" and delaying approval for tax exempt status. Commissioner Shulman responded to this question by stating that "[t]here is absolutely no targeting." It has come to our attention that Commissioner Shulman was briefed directly by the Treasury Inspector General for Tax Administration in May 2012 on this issue. Why didn't the former Commissioner update his testimony or inform the Members of this information?**

The ongoing investigations should establish the facts surrounding this situation. If you require additional information from Commissioner Shulman, please let me know and we can provide his attorney's name to you.

**Question 11: In your testimony before the Oversight Subcommittee on July 25, 2012, you were directly asked about the reports that the IRS had been targeting conservative groups, to which you responded "I am aware that some 200 501(c)(4) applications fell into this category [the determination letter process]. We did group those organizations together to ensure consistency, to ensure quality." It has come to our attention that you were briefed on this issue in May 2012. If at the time of the hearing you knew that IRS personnel had targeted groups for extra scrutiny based on their political beliefs, why didn't you share all of this information with the Subcommittee at that time?**

The ongoing investigations should establish the facts surrounding this situation. If you require additional information from Mr. Miller, please let me know and we can provide his attorney's name to you.

**Question 12: We understand that the Director of the Exempt Organizations Office, Ms. Lois Lerner, was first briefed on the IRS targeting issue on June 29, 2011. On May 8, 2013, Ms. Lerner, testified before the Subcommittee on Oversight. During this hearing, she was asked about the IRS's oversight of political activities by Congressman Crowley. At no point within this discussion did Ms. Lerner provide any information to the Subcommittee Members about the targeting issue or pending TIOTA audit. Given that the topic of political activities was discussed at the hearing, why didn't Ms. Lerner, on May 8th, provide the Subcommittee with the information she shared at the American Bar Association conference two days later? After she shared the information at the American Bar Association conference, why didn't she update her testimony or share all of the information she had on the issue with the Members?**

The ongoing investigations should establish the facts surrounding this situation. If you require additional information from Ms. Lerner, please let me know and we can provide her attorney's name to you.

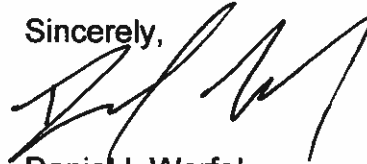
**Question 13: Why did the IRS attempt to group applications from these organizations together? Has this been done in the past for other types of issues? If so, please identify the issues. Was the grouping that is the topic of this letter politically motivated? Are Section 501 (c)(4) organizations required to apply to the IRS for tax-exempt status?**

As detailed above, we have historically grouped together similar applications for the purposes of promoting efficiency and ensuring consistent treatment. In this case, these groupings were unfortunately done based on inappropriate criteria.

Organizations claiming tax-exempt status under section 501(c)(4) are not required to apply for exemption. Instead, they may self-declare and file a Form 990 at the end of their tax year.

I hope this information is helpful. If you have questions, please contact me at (202) 622-9511 or have your staff contact Leonard Oursler at (202) 622-6006.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel I. Werfel', written over a horizontal line.

Daniel I. Werfel  
Acting Commissioner

Enclosures (3)